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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/580,412 05/30/00 JENKINS

H 7947

EXAMINER

QM22/0313

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FLORES SANCHEZ, G  
ART UNIT PAPER NUMBER

3724  
DATE MAILED:

03/13/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. 09/580,412	Applicant(s) JENKINS, HENRY H.	
	Examiner Omar Flores-Sánchez	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- |   |   |
|---|---|
| <p>14) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>15) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>16) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.</p> | <p>17) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.</p> <p>18) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>19) <input type="checkbox"/> Other: _____</p> |
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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1 and 4-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Brayton et al.

Brayton discloses (Fig. 2-4) the invention including a bottom board 21b, cavity board 20, a metal plate 45, a top board 21a, a plurality of rule slots 23, a steel rule 12, a cutting edge is defined by a generally triangular shape configuration, a bottom portion and first and second end portion extending at approximately a 45° angle (see Fig.3-4).

3. Claims 7-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson.

Johnson discloses (Fig. 5-19) the invention including a metal plate (see Fig. 16), a top board 3, a plurality of rule slots 27, a steel rule/metal member 4, a cutting edge is defined by a generally triangular shape configuration, a bottom portion and first and

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second end portion extending at approximately a 45° angle 9-10, a first direction and a second direction.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brayton et al. in view of Johnson.

Brayton discloses the invention substantially as claimed except for a generally cylindrical ejection rubber. However, Johnson teaches the use of ejection rubber for the purpose of removing the material out of the die. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brayton's die by providing ejection rubbers as taught by Johnson in order to remove the material out of the die.

Regarding to the cylindrical shape, It would have been an obvious matter of design choice to modify the Johnson reference by having a cylindrical ejection rubber, since applicant has not disclosed that a cylindrical ejection rubber solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Johnson's ejection rubber.

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**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. H. Zimmerman, Jones, Jr., Jones et al., Abe et al., Böswarth, Holliday, Robbins, III and Sandford are cited to show related device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is (703) 308-0167. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

ofs  
March 11, 2001



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700